

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 38*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/12/13
PROPOSED HOUSE COMMITTEE SUBSTITUTE S38-PCS45200-RI-41

Short Title: Amend Environmental Laws 2014.

(Public)

Sponsors:

Referred to:

February 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
3 LAWS.

4 The General Assembly of North Carolina enacts:

5
6 **AMEND TRANSPLANTING OF OYSTERS AND CLAMS STATUTE**

7 **SECTION 1.** G.S. 113-203 reads as rewritten:

8 **"§ 113-203. Transplanting of oysters and clams.**

9 (a) ~~It is unlawful to transplant oysters taken from public grounds to private beds except:~~

10 (1) ~~When lawfully taken during open season and transported directly to a private~~
11 ~~bed in accordance with rules of the Marine Fisheries Commission.~~

12 (2) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

13 (3) ~~When the transplanting is done in accordance with the provisions of this~~
14 ~~section and implementing rules.~~

15 (a1) ~~It is lawful to transplant seed clams less than 12 millimeters in their largest~~
16 ~~dimension and seed oysters less than 25 millimeters in their largest dimension and when the~~
17 ~~seed clams and seed oysters originate from an aquaculture operation permitted by the Secretary.~~

18 (a2) It is unlawful to do any of the following:

19 (1) Transplant oysters or clams taken from public grounds to private beds except
20 when lawfully taken during open season and transported directly to a private
21 bed in accordance with rules of the Marine Fisheries Commission.

22 (2) Transplant oysters or clams taken from permitted aquaculture operations to
23 private beds except from waters in the approved classification.

24 (3) Transplant oysters or clams from public grounds or permitted aquaculture
25 operations utilizing waters in the restricted or conditionally approved
26 classification to private beds except when the transplanting is done in
27 accordance with the provisions of this section and implementing rules.

28 (a3) It is lawful to transplant seed oysters or seed clams taken from permitted
29 aquaculture operations that use waters in the restricted or conditionally approved classification
30 to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that
31 sets times during which transplant is permissible and other reasonable restrictions imposed by
32 the Secretary under either of the following circumstances:

33 (1) When transplanting seed clams less than 12 millimeters in their largest
34 dimension.



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1 (2) When transplanting seed oysters less than 25 millimeters in their largest
2 dimension.

3 (a4) It is unlawful to conduct a seed transplanting operation pursuant to subsection (a3)
4 of this section if the seed transplanting operation is not conducted in compliance with its
5 Aquaculture Seed Transplant Permit.

6 (b) It is lawful to transplant from public bottoms to private beds oysters or clams taken
7 from ~~polluted~~ waters in the restricted or conditionally approved classifications with a permit
8 from the Secretary setting out the waters from which the oysters or clams may be taken, the
9 quantities which may be taken, the times during which the taking is permissible, and other
10 reasonable restrictions imposed by the Secretary for the regulation of transplanting operations.
11 Any transplanting operation which does not substantially comply with the restrictions of the
12 permit issued is unlawful.

13 (c) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

14 (d) It is lawful to transplant to private beds in North Carolina oysters taken from natural
15 or managed public beds designated by the Marine Fisheries Commission as seed oyster
16 management areas. The Secretary shall issue permits to all qualified individuals who are
17 residents of North Carolina without regard to county of residence to transplant seed oysters
18 from said designated seed oyster management areas, setting out the quantity which may be
19 taken, the times which the taking is permissible and other reasonable restrictions imposed to aid
20 the Secretary in the Secretary's duty of regulating such transplanting operations. Persons taking
21 such seed oysters may, in the discretion of the Marine Fisheries Commission, be required to
22 pay to the Department for oysters taken an amount to reimburse the Department in full or in
23 part for the costs of seed oyster management operations. Any transplanting operation which
24 does not substantially comply with the restrictions of the permit issued is unlawful.

25 (e) The Marine Fisheries Commission may implement the provisions of this section by
26 rules governing sale, possession, transportation, storage, handling, planting, and harvesting of
27 oysters and clams and setting out any system of marking oysters and clams or of permits or
28 receipts relating to them generally, from both public and private beds, as necessary to regulate
29 the lawful transplanting of seed oysters and oysters or clams taken from or placed on public or
30 private beds.

31 (f) The Commission may establish a fee for each permit established pursuant to this
32 subsection in an amount that compensates the Division for the administrative costs associated
33 with the permit but that does not exceed one hundred dollars (\$100.00) per permit.

34 (g) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from
35 one permit year to the next, the Division may issue a permit prior to July 1 of the permit year
36 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
37 prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the
38 revenue is received and shall be credited and available to the Division for the permit year in
39 which the permit is valid."
40

41 **EXEMPT CONSTRUCTION AND DEMOLITION LANDFILLS FROM THE**
42 **MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO**
43 **OTHER SOLID WASTE MANAGEMENT FACILITIES**

44 **SECTION 2. G.S. 130A-295.2 reads as rewritten:**

45 **"§ 130A-295.2. Financial responsibility requirements for applicants and permit holders**
46 **for solid waste management facilities.**

47 ...

48 (h) To meet the financial assurance requirements of this section, the owner or operator
49 of a sanitary ~~landfill~~ landfill, other than a sanitary landfill for the disposal of construction and
50 demolition debris waste, shall establish financial assurance sufficient to cover a minimum of
51 two million dollars (\$2,000,000) in costs for potential assessment and corrective action at the

1 facility. The Department may require financial assurance in a higher amount and may increase
2 the amount of financial assurance required of a permit holder at any time based upon the types
3 of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill,
4 the location of the landfill, potential receptors of releases from the landfill, and inflation. The
5 financial assurance requirements of this subsection are in addition to the other financial
6 responsibility requirements set out in this section.

7 (h1) To meet the financial assurance requirements of this section, the owner or operator
8 of a sanitary landfill for the disposal of construction and demolition debris waste shall establish
9 financial assurance sufficient to cover a minimum of one million dollars (\$1,000,000) in costs
10 for potential assessment and corrective action at the facility. The financial assurance
11 requirements of this subsection are in addition to the other financial responsibility requirements
12 set out in this section.

13 ...

14 (j) In addition to the other methods by which financial assurance may be established as
15 set forth in subsection (f) of this section, the Department may allow the owner or operator of a
16 sanitary landfill permitted on or before August 1, 2009, to meet the financial assurance
17 requirement set forth in subsection (h) of this section by establishing a trust fund which
18 conforms to the following minimum requirements:

19 ...

20 (4) Payments into the fund shall be made in equal annual installments in
21 amounts calculated by dividing the current cost estimate for potential
22 assessment and corrective action at the facility, ~~which~~ which, for a sanitary
23 landfill, other than a sanitary landfill for the disposal of construction and
24 demolition debris waste, shall not be less than two million dollars
25 (\$2,000,000) in accordance with subsection (h) of this section, by the
26 number of years in the pay-in period.

27 (5) The trust fund may be terminated by the owner or operator only if the owner
28 or operator establishes financial assurance by another method or
29 combination of methods allowed under subsection (f) of this section.

30 (6) The trust agreement shall be accompanied by a formal certification of
31 acknowledgement."
32

33 ON-SITE WASTEWATER APPROVAL CLARIFICATION

34 **SECTION 3.(a)** G.S. 130A-343 is amended by adding a new subsection to read:

35 "**§ 130A-343. Approval of on-site subsurface wastewater systems.**

36 ...

37 (j1) Clarification With Respect to Certain Dispersal Media. – In considering the
38 application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic
39 aggregate particles as a septic effluent dispersal medium for approval of the system under this
40 section, neither the Commission nor the Department may condition, delay, or deny the approval
41 based on the particle or bulk density of the expanded polystyrene material. With respect to
42 approvals already issued by the Department or Commission that include conditions or
43 requirements related to the particle or bulk density of expanded polystyrene material, the
44 Commission or Department, as applicable, shall promptly reissue all such approvals with the
45 conditions and requirements relating to the density of expanded polystyrene material
46 permanently deleted while leaving all other terms and conditions of the approval intact.

47"

48 **SECTION 3.(b)** Until the reissuance of approvals by the Department of
49 Environment and Natural Resources or the Commission for Public Health as required by
50 Section 3(a) of this act, conditions or requirements in existing approvals relating to the particle
51 or bulk density of expanded polystyrene shall have no further force or effect.

EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES

SECTION 4. Section 34(b) of S.L. 2013-413 reads as rewritten:

"SECTION 34.(b) Implementation. – Notwithstanding the Daily Flow for Design rates listed for dwelling units in 15A NCAC 18A .1949(a) or for other establishments in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall be exempt from the Daily Flow for Design, and any other design flow standards that are established by the Department of Health and Human Services or the Commission for Public Health provided flow rates that are less than those listed in ~~Table No. 1 of 15A NCAC 18A .1949(b)~~ 15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) can be achieved through engineering design that utilizes low-flow fixtures and low-flow technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes. The Department and Commission may ~~establish~~ establish, by rule, lower limits on reduced flow rates as necessary to ensure wastewater system integrity and protect public health, safety, and welfare, provided that the Commission relies on scientific evidence specific to soil types found in North Carolina that the lower limits are necessary for those soil types. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2). Proposed daily design flows for wastewater systems that are calculated to be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC 18A .1938(e)."

REFORM AGENCY REVIEW OF ENGINEERING WORK

SECTION 6.(a) Definitions. – The following definitions apply to Section 6 of this act:

- (1) Practice of Engineering. – As defined in G.S. 89C-3.
- (2) Professional Engineer. – As defined in G.S. 89C-3.
- (3) Regulatory Authority. – The Department of Environment and Natural Resources, the Department of Health and Human Services, and any unit of local government operating a program (i) that grants permits, licenses, or approvals to the public and (ii) that is either approved by or delegated from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- (4) Regulatory Submittal. – An application or other submittal to a Regulatory Authority for a permit, license, or approval. In the case of a unit of local government, Regulatory Submittal shall mean an application or submittal submitted to a program approved by or delegated from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- (5) Submitting Party. – The person submitting the Regulatory Submittal to the Regulatory Authority.
- (6) Working Job Title. – The job title a Regulatory Authority uses to publicly identify an employee with job duties that include the review of Regulatory Submittals. Working Job Title does not mean job titles that are used by the human resources department of a Regulatory Authority to classify jobs containing technical aspects related to the Practice of Engineering.

SECTION 6.(b) Standardize Certain Regulatory Review Procedures. – No later than December 1, 2014, each Regulatory Authority shall review and, where necessary, revise its procedures for review of Regulatory Submittals to accomplish the following:

- (1) Standardize the provision of review and comments on Regulatory Submittals so that revisions or requests for additional information that are required by

1 the Regulatory Authority in order to proceed with the permit, license, or
2 approval are clearly delineated from revisions or requests for additional
3 information that constitute suggestions or recommendations by the
4 Regulatory Authority. For purposes of this subdivision, "suggestions or
5 recommendations by the Regulatory Authority" means comments made by
6 the reviewer of the Regulatory Submittal to the Submitting Party that make a
7 suggestion or recommendation for consideration by the Submitting Party but
8 that are not required by the Regulatory Authority in order to proceed with
9 the permit, license, or approval.

- 10 (2) With respect to revisions or requests for additional information that are
11 required by the Regulatory Authority in order to proceed with the permit,
12 license, or approval, the Regulatory Authority shall identify the statutory or
13 regulatory authority for the requirement.

14 **SECTION 6.(c)** Informal Review. – No later than December 1, 2014, each
15 Regulatory Authority shall create a process for each regulatory program administered by the
16 Regulatory Authority for an informal internal review at the request of the Submitting Party in
17 each of the following circumstances:

- 18 (1) The inclusion in a Regulatory Submittal of a design or practice sealed by a
19 Professional Engineer but not included in the Regulatory Authority's existing
20 guidance, manuals, or standard operating procedures. This review should
21 first be conducted by the reviewing employee's supervisor or, in the case of a
22 Regulatory Authority that is a unit of local government, either the reviewing
23 employee's supervisor or the delegating or approving State agency. If this
24 initial review was not conducted by a Professional Engineer, then the
25 Submitting Party may request review by (i) a Professional Engineer on the
26 staff of the Regulatory Authority or (ii) the delegating or approving State
27 agency in the case of a Regulatory Authority that is a unit of local
28 government. If the Regulatory Authority or delegating or approving State
29 agency does not employ a Professional Engineer qualified and competent to
30 perform the review, it may provide for review by a consulting Professional
31 Engineer selected from a list developed and maintained by the Regulatory
32 Authority. The Regulatory Authority may charge the Submitting Party for
33 the costs of the review by the consulting Professional Engineer. Nothing in
34 this subdivision is intended to limit the authority of the Regulatory Authority
35 to make a final decision with regard to a Regulatory Submittal following the
36 reviews described in this subdivision.
- 37 (2) A disagreement between the reviewer of the Regulatory Submittal and the
38 Submitting Party regarding whether the statutory or regulatory authority
39 identified by the Regulatory Authority for revisions or requests for
40 additional information designated as "required" under the procedures set
41 forth in Section 6(b) of this act justifies a required change.

42 **SECTION 6.(d)** Scope. – Nothing in Section 6(c) of this act shall limit or abrogate
43 any rights available under Chapter 150B of the General Statutes to any Submitting Party.

44 **SECTION 6.(e)** Procedure to Develop List of Consulting Professional Engineers. –
45 Regulatory Authorities shall develop formal written procedures to prepare and maintain a list of
46 consulting Professional Engineers required pursuant to subdivision (1) of Section 6(c) of this
47 act.

48 **SECTION 6.(f)** Pilot Study. – No later than March 1, 2015, the Department of
49 Environment and Natural Resources shall complete a pilot study on the Pretreatment,
50 Emergency Response and Collection System (PERCS) wastewater collection system permitting
51 program and the stormwater permitting program and perform the following activities with the

1 assistance and cooperation of the North Carolina Board of Examiners for Engineers and
2 Surveyors and the Professional Engineers of North Carolina:

- 3 (1) Produce an inventory of work activities associated with the operation of each
4 regulatory program.
- 5 (2) Determine the work activities identified under subdivision (1) of this
6 subsection that constitute the Practice of Engineering.
- 7 (3) Develop recommendations for ensuring that work activities constituting the
8 Practice of Engineering are conducted with the appropriate level of
9 oversight.

10 **SECTION 6.(g)** Report. – The Department shall report the results of the pilot study
11 to the Environmental Review Commission no later than April 15, 2015.

12 **SECTION 6.(h)** Review of Working Job Titles. – No later than December 1, 2014,
13 each Regulatory Authority and the Department of Transportation shall do the following:

- 14 (1) Review the Working Job Titles of every employee with job duties that
15 include the review of Regulatory Submittals.
- 16 (2) Propose revisions to the Working Job Titles identified under subdivision (1)
17 of this subsection or other administrative measures that will eliminate the
18 public identification as "engineers" of persons reviewing Regulatory
19 Submittals who are not Professional Engineers.

20 **SECTION 6.(i)** Initial Report. – Each Regulatory Authority shall report to the
21 Environmental Review Commission prior to the convening of the 2015 Regular Session of the
22 2015 General Assembly on implementation of the following, if applicable:

- 23 (1) The standardized procedures required by Section 6(b) of this act.
- 24 (2) The informal review process required by Section 6(c) of this act.
- 25 (3) The review of Working Job Titles required by Section 6(h) of this act.

26 **SECTION 6.(j)** Annual Report. – Beginning in 2016, each Regulatory Authority
27 shall annually report to the Environmental Review Commission no later than January 15 on the
28 informal review process required by Section 6(c) of this act. The report shall include the
29 number of times the informal review process was utilized and the outcome of the review.

30 **SECTION 6.(k)** Annual Reporting Sunset. – Section 6(j) of this act expires on
31 January 1, 2019.

32 33 **STUDY TEMPORARY GROUNDWATER WITHDRAWAL PERMITS WITHIN THE** 34 **CENTRAL COASTAL PLAIN CAPACITY USE AREA**

35 **SECTION 7.(a)** The Department of Environment and Natural Resources shall
36 study groundwater withdrawal permitting in the Central Coastal Plain Capacity Use Area
37 (CCPCUA), as designated by 15A NCAC 02E .0501. The study shall include:

- 38 (1) A study of the adequacy of the existing permitting program with respect to
39 protection of groundwater supplies within Cretaceous aquifer zones.
- 40 (2) A study of the impact of the issuance of temporary groundwater withdrawal
41 permits by the Division of Water Resources of the Department of
42 Environment and Natural Resources that considers the number of temporary
43 permits now in place, the number of pending temporary permit applications,
44 and the total amount of groundwater withdrawals from the Cretaceous
45 aquifer zones within the CCPCUA.
- 46 (3) A recommendation, supported by findings of fact, as to whether a limit on
47 the issuance of temporary groundwater withdrawal permits within the
48 CCPCUA is needed to prevent further Cretaceous aquifer depletion and
49 saltwater encroachment.

1 **SECTION 7.(b)** The Department may make an interim report prior to the
2 convening of the 2015 General Assembly and shall make its final report, including any
3 proposed legislation, to the 2015 General Assembly when it reconvenes in 2016.
4

5 **AMEND ISOLATED WETLANDS REGULATION**

6 **SECTION 8.(a)** Until the effective date of the revised permanent rule that the
7 Environmental Management Commission is required to adopt pursuant to Section 8(c) of this
8 act, the Commission and the Department of Environment and Natural Resources shall
9 implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 8(b) of this
10 act.

11 **SECTION 8.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of
12 Applications), both of the following shall apply to the implementation of 15A NCAC 02H
13 .1305:

- 14 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H
15 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east
16 of I-95 for the entire project and less than or equal to 1/3 acre of isolated
17 wetlands west of I-95 for the entire project.
- 18 (2) The mitigation ratio under 15A NCAC 02H .1305(g)(6) shall be 1:1.

19 **SECTION 8.(c)** The Environmental Management Commission shall adopt a rule to
20 amend 15A NCAC 02H .1305 (Review of Applications) consistent with Section 8(b) of this
21 act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to Section
22 9(c) of this act shall be substantively identical to the provisions of Section 8(b) of this act.
23 Rules adopted pursuant to Section 8(c) of this act are not subject to Part 3 of Article 2A of
24 Chapter 150B of the General Statutes. Rules adopted pursuant to Section 8(c) of this act shall
25 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
26 had been received as provided by G.S. 150B-21.3(b2).

27 **SECTION 8.(d)** The Department of Environment and Natural Resources shall
28 study (i) how the term "isolated wetland" is defined in State law and whether the term should
29 be clarified in order to provide greater certainty in identifying isolated wetlands and (ii) the
30 surface area thresholds for the regulation of mountain bog isolated wetlands, including whether
31 mountain bog isolated wetlands should have surface area regulatory thresholds different from
32 other types of isolated wetlands. The Department shall report its findings and recommendations
33 to the Environmental Review Commission on or before November 1, 2014.

34 **SECTION 8.(e)** This section is effective when it becomes law. Section 8(b) of this
35 act expires on the date that rules adopted pursuant to Section 8(c) of this act become effective.
36

37 **SPEED LIMIT WAIVER IN STATE PARKS AND FORESTS**

38 **SECTION 9.(a)** G.S. 143-116.8 is amended by adding two new subsections to
39 read:

40 **"§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

41 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the
42 General Statutes relating to the use of highways and public vehicular areas of the State and the
43 operation of vehicles thereon are made applicable to the State parks and forests road system.
44 For the purposes of this section, the term "State parks and forests road system" shall mean the
45 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,
46 State recreation areas, State lakes, and all other lands administered by the Department of
47 Environment and Natural Resources or the Department of Agriculture and Consumer Services.
48 This term shall not be construed, however, to include streets that are a part of the State highway
49 system. Any person violating any of the provisions of Chapter 20 of the General Statutes
50 hereby made applicable in the State parks and forests road system shall, upon conviction, be
51 punished in accordance with Chapter 20 of the General Statutes. Nothing herein contained shall

1 be construed as in any way interfering with the ownership and control of the State parks road
2 system by the Department of Environment and Natural Resources and the forests road system
3 by the Department of Agriculture and Consumer Services.

4 (b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road
5 system at a speed in excess of twenty-five miles per hour (25 mph). When
6 the Secretary of Environment and Natural Resources determines that this
7 speed is greater than reasonable and safe under the conditions found to exist
8 in the State parks road system, the Secretary may establish a lower
9 reasonable and safe speed limit. No speed limit established by the Secretary
10 pursuant to this provision shall be effective until posted in the part of the
11 system where the limit is intended to apply.

12 (1a) It shall be unlawful for a person to operate a vehicle in the State forests road
13 system at a speed in excess of 25 miles per hour. When the Commissioner of
14 Agriculture determines that this speed is greater than reasonable and safe
15 under the conditions found to exist in the State forests road system, the
16 Commissioner may establish a lower reasonable and safe speed limit. No
17 speed limit established by the Commissioner pursuant to this provision shall
18 be effective until posted in the part of the system where the limit is intended
19 to apply.

20 ...

21 (f) Notwithstanding any other provision of this section, a person may petition the
22 Department of Environment and Natural Resources for a waiver authorizing the person to
23 operate a vehicle in the State parks road system at a speed in excess of 25 miles per hour in
24 connection with a special event. The Secretary may impose any conditions on a waiver that the
25 Secretary determines to be necessary to protect public health, safety, welfare, and the natural
26 resources of the State park. These conditions shall include a requirement that the person
27 receiving the waiver execute an indemnification agreement with the Department and obtain
28 general liability insurance in an amount not to exceed three million dollars (\$3,000,000)
29 covering personal injury and property damage that may result from driving in excess of 25
30 miles per hour in the State parks road system subject to the conditions determined by the
31 Secretary.

32 (g) Notwithstanding any other provision of this section, a person may petition the
33 Department of Agriculture and Consumer Services for a waiver authorizing the person to
34 operate a vehicle in the State forests road system at a speed in excess of 25 miles per hour in
35 connection with a special event. The Commissioner may impose any conditions on a waiver
36 that the Commissioner determines to be necessary to protect public health, safety, welfare, and
37 the natural resources of the State forest. These conditions shall include a requirement that the
38 person receiving the waiver execute an indemnification agreement with the Department and
39 obtain general liability insurance in an amount not to exceed three million dollars (\$3,000,000)
40 covering personal injury and property damage that may result from driving in excess of 25
41 miles per hour in the State forests road system subject to the conditions determined by the
42 Commissioner."

43 **SECTION 9.(b)** The Department of Environment and Natural Resources and the
44 Department of Agriculture and Consumer Services shall amend their rules to be consistent with
45 Section 9(a) of this act.

47 **INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS**

48 **SECTION 10.(a)** G.S. 14-129 reads as rewritten:

49 **"§ 14-129. Taking, etc., of certain wild plants from land of another.**

50 No person, firm or corporation shall dig up, pull up or take from the land of another or from
51 any public domain, the whole or any part of any Venus flytrap (*Dionaea muscipula*), trailing

1 arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot
2 (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower
3 (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra*
4 *cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*),
5 Gentians (*Gentiana*), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and
6 *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*),
7 Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*),
8 Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star (*Dodecatheon meadia*), Oconee
9 Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas
10 (Greens-*Lycopodium*), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and
11 Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other
12 coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any
13 ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea,
14 without having in his possession a permit to dig up, pull up or take such plants, signed by the
15 owner of such land, or by his duly authorized agent. Any person convicted of violating the
16 provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of
17 not less than ~~ten dollars (\$10.00)~~ seventy-five dollars (\$75.00) nor more than ~~fifty dollars~~
18 ~~(\$50.00)~~ one hundred seventy-five dollars (\$175.00) for each ~~offense~~ offense, with each plant
19 taken in violation of this section constituting a separate offense. The Clerk of Court for the
20 jurisdiction in which a conviction occurs under this section involving any species listed in this
21 section that also appears on the North Carolina Protected Plants list created under the authority
22 granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the
23 Plant Conservation Board so the Board may consider a civil penalty under the authority of that
24 Article. ~~The provisions of this section shall not apply to the Counties of Cabarrus, Carteret,~~
25 ~~Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,~~
26 ~~Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham,~~
27 ~~Rowan and Swain."~~

28 **SECTION 10.(b)** This section becomes effective December 1, 2014, and applies to
29 offenses committed on or after that date.

30 31 **STUDY USE OF CONTAMINATED PROPERTY**

32 **SECTION 11.(a)** The Department of Environment and Natural Resources shall
33 study ways to improve the timeliness of actions necessary to address contaminated properties
34 such that the property is safe for productive use, threats to the environment and public health
35 are minimized to acceptable levels, and the risk of taxpayer funded remediation is reduced. The
36 Department shall specifically consider all of the following:

- 37 (1) The expansion of risk-based remediation of groundwater to all remediation
38 programs under the Department.
- 39 (2) The Resources needed within the Department to oversee remediation,
40 including the potential to expand the use of Department approved private
41 environmental consulting and engineering firms to implement and oversee
42 remedial actions.
- 43 (3) That rules adopted by the Environmental Management Commission for
44 water quality standards applicable to groundwater be no more stringent than
45 the lower of the federal or State maximum contaminant levels for drinking
46 water in cases where the maximum contaminant levels have been adopted.
- 47 (4) Liability protection for innocent purchasers of nonresidential property who
48 take actions consistent with the federal Comprehensive Environmental
49 Response, Compensation, and Liability Act for due diligence and due care
50 regarding investigations and contaminants found.

1 (5) Other matters the Department deems appropriate to further the goals of this
2 study.

3 **SECTION 11.(b)** The Department shall report the results of this study, including
4 any recommendations, to the Environmental Review Commission no later than November 1,
5 2014.

6 **SCOPE OF LOCAL AUTHORITY FOR ORDINANCES**

7 **SECTION 12.(a)** Section 10.2 of S.L. 2013-413 is repealed.

8 **SECTION 12.(b)** No later than November 1, 2014, and November 1, 2015, the
9 Department of Agriculture and Consumer Services shall report to the Environmental Review
10 Commission on any local government ordinances that impinge on or interfere with any area
11 subject to regulation by the Department.

12 **SECTION 12.(c)** No later than November 1, 2014, and November 1, 2015, the
13 Department of Environment and Natural Resources shall report to the Environmental Review
14 Commission on any local government ordinances that impinge on or interfere with any area
15 subject to regulation by the Department.

16 **SECTION 12.(d)** In developing the reports pursuant to Sections 12(b) and 12(c) of
17 this act, the Department of Environment and Natural Resources and the Department of
18 Agriculture and Consumer Services shall solicit and receive input from the public regarding
19 any local government ordinances that impinge on or interfere with any area subject to
20 regulation by the respective Department.

21 **SECTION 12.(e)** Article 56 of Chapter 106 of the General Statutes is amended by
22 adding a new section to read:

23 **"§ 106-678. Authority to regulate fertilizers.**

24 No county, city, or other political subdivision of the State shall adopt or continue in effect
25 any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage,
26 transportation, disposal, formulation, labeling, registration, manufacture, or application of
27 fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of
28 the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of
29 the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising
30 its fire prevention or inspection authority. Nothing in this section shall limit the authority of the
31 Department of Environment and Natural Resources or the Environmental Management
32 Commission to enforce water quality standards. Nothing in this section shall prohibit a county,
33 city, or other political subdivision of the State from adopting ordinances regulating fertilizers to
34 protect water quality, provided that the ordinances have been approved by the Environmental
35 Management Commission or the Department of Environment and Natural Resources as part of
36 a local plan or NPDES permit application and do not exceed the State's minimum requirements
37 to protect water quality as established by the Environmental Management Commission under
38 Part 1, Article 21 of Chapter 143 of the General Statutes."

39 **CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS**

40 **SECTION 13.** Part 1A of Article 21 of Chapter 143 of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 143-215.10J Closure of certain animal waste containment basins.**

43 (a) The Department may consider any waste containment basin to be a fresh water
44 storage facility meeting all requirements for closure under 15A NCAC 02T .1306 if the owner
45 of the basin demonstrates to the satisfaction of the Department that the basin meets all of the
46 following requirements:

47 (1) The basin has been used only for the containment of dairy cattle waste.

48 (2) The basin was constructed prior to 2006.

- 1 (3) The basin has not been used for the containment of dairy cattle waste after
2 September 1, 2006.
- 3 (4) The only liquid currently entering the basin is from rainwater or rainwater
4 runoff.
- 5 (5) Nitrogen levels in the basin water do not exceed 40 parts per million.
- 6 (b) The Department shall provide written notification to the owner of a basin meeting
7 the requirements of subsection (a) of this section that the basin is no longer considered an
8 animal waste management system."

10 **FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS**

11 **SECTION 14.(a)** Subsections (l) and (m) of G.S. 113-210 are repealed.

12 **SECTION 14.(b)** This section becomes effective July 1, 2014.

14 **LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES**

15 **SECTION 15.** G.S. 160A-272 reads as rewritten:

16 "**§ 160A-272. Lease or rental of property.**

17 ...

18 (c) The council may approve a lease for the siting and operation of a renewable energy
19 facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20~~25 years without
20 treating the lease as a sale of property and without giving notice by publication of the intended
21 lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of~~
22 ~~Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill,~~
23 ~~Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest,~~
24 ~~Wendell, and Zebulon only."~~

26 **OPEN BURNING**

27 **SECTION 16.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
28 NCAC 02D .1902 (Definitions) apply to this section.

29 **SECTION 16.(b)** 15A NCAC 02D .1903 (Open Burning Without an Air Quality
30 Permit). – Until the effective date of the revised permanent rule that the Commission is
31 required to adopt pursuant to Section 16(d) of this section, the Commission and the Department
32 shall implement 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) as
33 provided in Section 16(c) of this section.

34 **SECTION 16.(c)** Implementation. – Notwithstanding Paragraph (b) of 15A NCAC
35 02D .1903 (Open Burning Without an Air Quality Permit), no air quality permit is required for
36 the open burning of leaves, logs, stumps, tree branches, or yard trimmings if the following
37 conditions are met:

- 38 (1) The material burned originates on the premises of private residences and is
39 burned on those premises.
- 40 (2) There are no public pickup services available.
- 41 (3) Nonvegetative materials, such as household garbage, lumber, or any other
42 synthetic materials, are not burned.
- 43 (4) The burning is initiated no earlier than 8:00 A.M. and no additional
44 combustible material is added to the fire between 6:00 P.M. on one day and
45 8:00 A.M. on the following day.
- 46 (5) The burning does not create a nuisance.
- 47 (6) Material is not burned when the North Carolina Forest Service has banned
48 burning for that area.

49 The burning of logs or stumps of any size shall not be considered to create a nuisance for
50 purposes of the application of the open burning air quality permitting exception described in
51 this subsection.

1 **SECTION 16.(d)** Additional Rule-Making Authority. – The Commission shall
2 adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit)
3 consistent with Section 16(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by
4 the Commission pursuant to this section shall be substantively identical to the provisions of
5 Section 16(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of
6 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall
7 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
8 had been received as provided by G.S. 150B-21.3(b2).

9 **SECTION 16.(e)** Sunset. – Section 16(c) of this act expires on the date that rules
10 adopted pursuant to Section 16(d) of this section become effective.

11 12 **INLET HAZARD AREAS**

13 **SECTION 17.(a)** The definitions set out in G.S. 113A-103 apply to this section.

14 **SECTION 17.(b)** 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas). –
15 Until the effective date of the revised permanent rule that the Commission is required to adopt
16 pursuant to Section 17(d) of this act, the Commission and the Department shall implement 15A
17 NCAC 07H .0304 (AECs Within Ocean Hazard Areas) as provided in Section 17(c) of this act.

18 **SECTION 17.(c)** Implementation. – Notwithstanding Subparagraph (3) of 15A
19 NCAC 07H .0304 (AECs Within Ocean Hazard Areas), the Commission shall not establish any
20 new and shall repeal any existing inlet hazard area in any location with the following
21 characteristics:

- 22 (1) The location is the former location of an inlet, but the inlet has been closed
23 for at least 15 years.
- 24 (2) Due to shoreline migration, the location no longer includes the current
25 location of the inlet.
- 26 (3) The location includes an inlet providing access to a State Port via a channel
27 maintained by the United States Army Corps of Engineers.

28 **SECTION 17.(d)** Additional Rule-Making Authority. – The Commission shall
29 adopt a rule to amend 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) consistent
30 with Section 17(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the
31 Commission pursuant to this section shall be substantively identical to the provisions of Section
32 17(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of
33 Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become
34 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
35 received as provided by G.S. 150B-21.3(b2).

36 **SECTION 17.(e)** Sunset. – Section 17(c) of this act expires on the date that rules
37 adopted pursuant to Section 17(d) of this act become effective.

38 **SECTION 17.(f)** Nothing in this section is intended to prevent the Commission
39 from (i) studying any current inlet hazard area or any other area considered by the Commission
40 for designation as an inlet hazard area, (ii) designating new inlet hazard areas, or (iii)
41 modifying existing inlet hazard areas consistent with Section 17(c) of this act.

42 43 **HUNTING TRIALS**

44 **SECTION 18.(a)** The Wildlife Resources Commission shall adopt rules to clarify
45 the requirements in 15A NCAC 10B .0114 addressing which participants in retriever field trials
46 are required to possess a hunting license, including out-of-state participants, judges, and
47 spectators.

48 **SECTION 18.(b)** In developing the rules pursuant to Section 18(a) of this act, the
49 Wildlife Resources Commission shall hold public hearings and consult with field trial groups
50 active in the State.

51

EXPEDITED IBT PROCESS FOR CERTAIN RESERVOIRS

SECTION 19. G.S. 143-215.22L(w) reads as rewritten:

"(w) Requirements for Coastal ~~Counties~~ Counties and Reservoirs Constructed by the United States Army Corps of Engineers. – A petition for a certificate (i) to transfer surface water to supplement ground water supplies in the 15 counties designated as the Central Capacity Use Area under 15A NCAC 2E.0501, ~~or~~ (ii) to transfer surface water withdrawn from the mainstem of a river to provide service to one of the coastal area counties designated pursuant to G.S. 113A-103, or (iii) to withdraw or transfer water stored in any multipurpose reservoir constructed by the United States Army Corps of Engineers and partially located in a state adjacent to North Carolina, provided the United States Army Corps of Engineers approved the withdrawal or transfer on or before July 1, 2014, shall be considered and a determination made according to the following procedures:

- (1) The applicant shall file a notice of intent that includes a nontechnical description of the applicant's request and identification of the proposed water source.
- (2) The applicant shall prepare an environmental document pursuant to subsection (d) of this section, except that an environmental impact statement shall not be required unless it would otherwise be required by Article 1 of Chapter 113A of the General Statutes.
- (3) Upon determining that the documentation submitted by the applicant is adequate to satisfy the requirements of this subsection, the Department shall publish a notice of the petition in the North Carolina Register and shall hold a public hearing at a location convenient to both the source and receiving river basins. The Department shall provide written notice of the petition and the public hearing in the Environmental Bulletin, a newspaper of general circulation in the source river basin, a newspaper of general circulation in the receiving river basin, and as provided in subdivision (3) of subsection (c) of this section. The applicant who petitions the Commission for a certificate under this subdivision shall pay the costs associated with the notice and public hearing.
- (4) The Department shall accept comments on the petition for a minimum of 30 days following the public hearing.
- (5) The Commission or the Department may require the applicant to provide any additional information or documentation it deems reasonably necessary in order to make a final determination.
- (6) The Commission shall make a final determination whether to grant the certificate based on the factors set out in subsection (k) of this section, information provided by the applicant, and any other information the Commission deems relevant. The Commission shall state in writing its findings of fact and conclusions of law with regard to each factor.
- (7) The Commission shall grant the certificate if it finds that the applicant has established by a preponderance of the evidence that the petition satisfies the requirements of subsection (m) of this section. The Commission may grant the certificate in whole or in part, or deny the request, and may impose such limitations and conditions on the certificate as it deems necessary and relevant."

ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS

SECTION 20.(a) G.S. 143-215.3A reads as rewritten:

"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title V Account; I & M Air Pollution Control Account; reports.

1 ...
 2 (c) The Department shall report to the Environmental Review Commission and the
 3 Fiscal Research Division on the cost of the State's environmental permitting programs
 4 contained within the Department on or before 1 November of each year. ~~In addition, the~~
 5 ~~Department shall report to the Environmental Review Commission and the Fiscal Research~~
 6 ~~Division on the cost of the Title V Program on or before 1 November of each year. The reports~~
 7 report shall include, but ~~are is~~ not limited to, fees set and established under this Article, fees
 8 collected under this Article, revenues received from other sources for environmental permitting
 9 and compliance programs, changes made in the fee schedule since the last report, anticipated
 10 revenues from all other sources, interest earned and any other information requested by the
 11 General Assembly."

12 **SECTION 20.(b)** The following sections of S.L. 2002-4 are repealed:

- 13 (1) Section 10.
 14 (2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.
 15 (3) Section 12.
 16 (4) Section 13.

17 **SECTION 20.(c)** G.S. 143-215.108(g) is repealed.
 18

19 CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT 20 OF VENOMOUS SNAKES AND OTHER REPTILES

21 **SECTION 21.** G.S. 114-419(b) reads as rewritten:

22 "**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles;
 23 disposition of reptiles.**

24 ...
 25 (b) If the Museum or the Zoological Park or their designated representatives find that a
 26 seized reptile is a venomous reptile, large constricting snake, or crocodylian regulated under this
 27 Article, the Museum or the Zoological Park or their designated representative shall determine
 28 final disposition of the reptile in a manner consistent with the safety of the public, which in the
 29 case of a venomous reptile for which antivenin approved by the United States Food and Drug
 30 Administration is not readily available, ~~may include euthanasia, shall be euthanized unless the~~
 31 species is protected under the federal Endangered Species Act of 1973."
 32

33 REFORM ON-SITE WASTEWATER REGULATION

34 **SECTION 22.(a)** G.S. 130A-334 reads as rewritten:

35 "**§ 130A-334. Definitions.**

36 The following definitions shall apply throughout this Article:

37 ...
 38 (1b) "Ground absorption system" means a system of tanks, treatment units,
 39 nitrification fields, and appurtenances for wastewater collection, treatment,
 40 and subsurface disposal.

41 ...
 42 (7a) "Plat" means a property survey prepared by a registered land surveyor,
 43 drawn to a scale of one inch equals no more than 60 feet, that includes: the
 44 specific location of the proposed facility and appurtenances, the site for the
 45 proposed wastewater system, and the location of water supplies and surface
 46 waters. "Plat" also means, for subdivision lots approved by the local
 47 planning authority ~~and recorded with the county register of deeds, if a local~~
 48 planning authority exists at the time of application for a permit under this
 49 Article, a copy of the ~~recorded~~-subdivision plat that has been recorded with
 50 the county register of deeds and is accompanied by a site plan that is drawn
 51 to scale.

1 ...
2 (15) "Wastewater system" means a system of wastewater collection, treatment,
3 and disposal in single or multiple components, including a ground
4 absorption system, privy, septic tank system, public or community
5 wastewater system, wastewater reuse or recycle system, mechanical or
6 biological wastewater treatment system, any other similar system, and any
7 chemical toilet used only for human waste. A wastewater system located on
8 multiple adjoining lots or tracts of land under common ownership or control
9 shall be considered a single system for purposes of permitting under this
10 Article."

11 **SECTION 22.(b)** G.S. 130A-335(f1) reads as rewritten:

12 "(f1) A preconstruction conference with the owner or developer, or an agent of the owner
13 or developer, and a representative of the local health department shall be required for any
14 authorization for wastewater system construction issued with an improvement permit under
15 G.S. 130-336 when the authorization is greater than five years old. Following the conference,
16 the local health department shall ~~issue a revised authorization~~ advise the owner or developer of
17 any rule changes for wastewater system construction ~~that includes incorporating current~~
18 technology that can reasonably be expected to improve the performance of the system. The
19 local health department shall issue a revised authorization for wastewater system construction
20 incorporating the rule changes upon the written request of the owner or developer."

21 **SECTION 22.(c)** G.S. 130A-336 reads as rewritten:

22 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**
23 **required.**

24 ...
25 (b) The local health department shall issue an authorization for wastewater system
26 construction authorizing work to proceed and the installation or repair of a wastewater system
27 when it has determined after a field investigation that the system can be installed and operated
28 in compliance with this Article and rules adopted pursuant to this Article. This authorization for
29 wastewater system construction shall be valid for a period equal to the period of validity of the
30 improvement ~~permit, not to exceed five years,~~ permit and may be issued at the same time the
31 improvement permit is issued. No person shall commence or assist in the installation,
32 construction, or repair of a wastewater system unless an improvement permit and an
33 authorization for wastewater system construction have been obtained from the Department or
34 the local health department. No improvement permit or authorization for wastewater system
35 construction shall be required for maintenance of a wastewater system. The Department and the
36 local health department may impose conditions on the issuance of an improvement permit and
37 an authorization for wastewater system construction.

38 (c) Unless the Commission otherwise provides by rule, plans, and specifications for all
39 wastewater systems designed for the collection, treatment, and disposal of industrial process
40 wastewater shall be reviewed and approved by the Department prior to the issuance of an
41 authorization for wastewater system construction by the local health department.

42 (d) If a local health department repeatedly fails to issue or deny improvement permits
43 for conventional septic tank systems within 60 days of receiving completed applications for the
44 permits, then the Department of Environment and Natural Resources may withhold public
45 health funding from that local health department."
46

47 **REPEAL WASTE MANAGEMENT BOARD RULES**

48 **SECTION 23.(a)** The General Assembly finds that the statutory authority for the
49 Governor's Waste Management Board was repealed by S.L. 1993-501 and, therefore,
50 regulations previously promulgated by that Board are no longer enforceable or necessary.

1 **SECTION 23.(b)** The Secretary of Environment and Natural Resources shall
2 repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December
3 1, 2014. Until the effective date of the repeal of the rule required pursuant to this section, the
4 Secretary, the Department of Environment and Natural Resources, the Environmental
5 Management Commission, or any other political subdivision of the State shall not implement or
6 enforce 15A NCAC Chapter 14 (Governor's Waste Management Board).

7
8 **REPEAL ENERGY AUDIT REQUIREMENTS**

9 **SECTION 24.** G.S. 143-64.12 reads as rewritten:

10 **"§ 143-64.12. Authority and duties of the Department; State agencies and State**
11 **institutions of higher learning.**

12 (a) The Department of Environment and Natural Resources through the State Energy
13 Office shall develop a comprehensive program to manage energy, water, and other utility use
14 for State agencies and State institutions of higher learning and shall update this program
15 annually. Each State agency and State institution of higher learning shall develop and
16 implement a management plan that is consistent with the State's comprehensive program under
17 this subsection to manage energy, water, and other utility use, and that addresses any findings
18 or recommendations resulting from the energy audit required by subsection (b1) of this section.
19 The energy consumption per gross square foot for all State buildings in total shall be reduced
20 by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy
21 consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher
22 learning shall update its management plan ~~annually~~biennially and include strategies for
23 supporting the energy consumption reduction requirements under this subsection. Each
24 community college shall submit to the State Energy Office ~~an annual~~a biennial written report of
25 utility consumption and costs. Management plans submitted ~~annually~~biennially by State
26 institutions of higher learning shall include all of the following:

- 27 (1) Estimates of all costs associated with implementing energy conservation
28 measures, including pre-installation and post-installation costs.
29 (2) The cost of analyzing the projected energy savings.
30 (3) Design costs, engineering costs, pre-installation costs, post-installation costs,
31 debt service, and any costs for converting to an alternative energy source.
32 (4) An analysis that identifies projected annual energy savings and estimated
33 payback periods.

34 ...

35 (b1) The Department of Administration, as part of the Facilities Condition and
36 Assessment Program, shall identify and recommend energy conservation maintenance and
37 operating procedures that are designed to reduce energy consumption within the facility of a
38 State agency or a State institution of higher learning and that require no significant expenditure
39 of funds. Every State agency or State institution of higher learning shall implement these
40 recommendations. Where energy management equipment is proposed for any facility of a State
41 agency or of a State institution of higher learning, the maximum interchangeability and
42 compatibility of equipment components shall be required. ~~As part of the Facilities Condition~~
43 ~~and Assessment Program under this section, the Department of Administration, in consultation~~
44 ~~with the State Energy Office, shall develop an energy audit and a procedure for conducting~~
45 ~~energy audits. Every five years the Department shall conduct an energy audit for each State~~
46 ~~agency or State institution of higher learning, and the energy audits conducted shall serve as a~~
47 ~~preliminary energy survey. The State Energy Office shall be responsible for system level~~
48 ~~detailed surveys.~~

49 ~~(b2) The Department of Administration shall submit a report of the energy audit required~~
50 ~~by subsection (b1) of this section to the affected State agency or State institution of higher~~
51 ~~learning and to the State Energy Office. The State Energy Office shall review each audit and, in~~

1 ~~consultation with the affected State agency or State institution of higher learning, incorporate~~
2 ~~the audit findings and recommendations into the management plan required by subsection (a)~~
3 ~~of this section.~~

4 (c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

5 (h) ~~When conducting a facilities condition and assessment under this section, the~~
6 ~~Department of Administration shall identify and recommend to the State Energy Office any~~
7 ~~facility of a State agency or State institution of higher learning as suitable for building~~
8 ~~commissioning to reduce energy consumption within the facility or as suitable for installing an~~
9 ~~energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this~~
10 ~~Article.~~

11 (i) ~~Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt~~
12 ~~architectural and engineering standards to implement this section.~~

13 (j) The State Energy Office shall submit a report by December 1 of ~~each~~every
14 odd-numbered year to the Joint Legislative ~~Commission on Governmental Operations~~Energy
15 Policy Commission describing the comprehensive program to manage energy, water, and other
16 utility use for State agencies and State institutions of higher learning required by subsection (a)
17 of this section. The report shall also contain the following:

- 18 (1) A comprehensive overview of how State agencies and State institutions of
19 higher learning are managing energy, water, and other utility use and
20 achieving efficiency gains.
- 21 (2) Any new measures that could be taken by State agencies and State
22 institutions of higher learning to achieve greater efficiency gains, including
23 any changes in general law that might be needed.
- 24 (3) A summary of the State agency and State institutions of higher learning
25 management plans required by subsection (a) of this section ~~and the energy~~
26 ~~audits required by subsection (b1) of this section.~~
- 27 (4) A list of the State agencies and State institutions of higher learning that did
28 and did not submit management plans required by subsection (a) of this
29 section ~~and a list of the State agencies and State institutions of higher~~
30 ~~learning that received an energy audit.~~section.
- 31 (5) Any recommendations on how management plans can be better managed
32 and implemented."

33 34 WELL CONTRACTOR LICENSING CHANGES

35 **SECTION 25.(a)** G.S. 87-43.1 is amended by adding the following new
36 subdivision to read:

37 "§ 87-43.1. Exceptions.

38 The provisions of this Article shall not apply:

- 39 ...
- 40 (10) To the installation, construction, maintenance, or repair of electrical wiring,
41 devices, appliances, or equipment by a person certified as a well contractor
42 under Article 7A of this Chapter when running electrical wires from the well
43 pump to the pressure switch."

44 **SECTION 25.(b)** G.S. 87-98.6 reads as rewritten:

45 "§ 87-98.6. Well contractor qualifications and examination.

46 (a) The Commission, with the advice and assistance of the Secretary, shall establish
47 minimum requirements of education, experience, and knowledge for each type of certification
48 for well contractors and shall establish procedures for receiving applications for certification,
49 conducting examinations, and making investigations of applicants as may be necessary and
50 appropriate so that prompt and fair consideration will be given to each applicant.

1 (b) The Commission, with the advice and assistance of the Secretary, shall establish
2 minimum requirements of education, experience, and knowledge for each type of certification
3 for well contractors for the installation, construction, maintenance, and repair of electrical
4 wiring devices, appliances, and equipment related to the construction, operation, and repair of
5 wells. Requirements developed pursuant to this subsection shall apply only to the initial
6 certification of an applicant and shall not be required as part of continuing education or as a
7 condition of certification renewal."

8 **SECTION 25.(c)** This section is effective when it becomes law. The requirements
9 of subsection (b) of G.S. 87-98.6, as enacted by Section 25(b) of this act, apply to applicants
10 applying for certification on or after the date this section becomes effective.

11 12 **STANDARDIZE LOCAL WELL PROGRAMS**

13 **SECTION 26.(a)** G.S. 87-97 reads as rewritten:

14 **"§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

15 (a) **Mandatory Local Well Programs.** – Each county, through the local health
16 department that serves the county, shall implement a private drinking water well permitting,
17 inspection, and testing program. Local health departments shall administer the program and
18 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
19 set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay
20 or refuse to permit a well that can be constructed or repaired and operated in compliance with
21 the requirements set out in this Article and rules adopted pursuant to this Article.

22 (a1) Use of Standard Forms. – Local well programs shall use the standard forms created
23 by the Department for all required submittals and shall not create their own forms unless the
24 local program submits a petition for rule making to the Environmental Management
25 Commission, and the Commission by rule finds that conditions or circumstances unique to the
26 area served by the local well program constitute a threat to public health that will be mitigated
27 by use of a local form different from the form used by the Department.

28 ...

29 (k) **Registry of Permits and Test Results.** – Each local health department shall maintain
30 a registry of all private drinking water wells for which a construction permit or repair permit is
31 ~~issued.~~ issued that is searchable by address or addresses served by the well. The registry shall
32 specify the physical location of each private drinking water well and shall include the results of
33 all tests of water from each well. The local health department shall retain a record of the results
34 of all tests of water from a private drinking water well until the well is properly closed in
35 accordance with the requirements of this Article and rules adopted pursuant to this Article.

36 "

37 **SECTION 26.(b)** Notwithstanding 15A NCAC 02C .0107(j)(2), neither the
38 Department of Environment and Natural Resources nor any local well program shall require
39 that well contractor identification plates include the well construction permit numbers. Local
40 well programs may install a plate with the well construction permit number or any other
41 information deemed relevant on a well at the expense of the local program.

42 **SECTION 26.(c)** The Environmental Management Commission shall adopt a rule
43 to amend 15A NCAC 02C .0107(j)(2) consistent with Section 26(b) of this act.

44 **SECTION 26.(d)** Section 26(b) of this act expires on the date that the rule adopted
45 pursuant to Section 26(c) of this act becomes effective.

46 **SECTION 26.(e)** If the well location marked on the map submitted with an
47 application to a local well program is also marked with a stake or similar marker on the
48 property, then the local well program may not require the contractor to be on-site during the
49 on-site predrill inspection, as long as the contractor is available by telephone to answer
50 questions.

SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY

SECTION 27.(a) It is the intent of the General Assembly to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."

SECTION 27.(b) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall designate a contiguous area of appropriate acreage within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes the following components:

- (1) Location and delineation of the sanctuary. – The plan should include a location for the sanctuary that minimizes the impact on commercial trawling. In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.
- (2) Administration. – The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.
- (3) Funding. – The plan should include a request for appropriations sufficient to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.
- (4) Commercial fisherman relief. – To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty percent (50%) of their income from commercial fishing with those licenses.
- (5) Recommendations. – The plan should include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, and expand the coastal economy.

SECTION 27.(c) No later than December 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.

CLARIFY GRAVEL UNDER STORMWATER LAWS

SECTION 28.(a) G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a ~~wooden-slatted deck, deck or the water area of a swimming pool, or gravel pool.~~"

1 **SECTION 28.(b)** The Environmental Management Commission shall amend its
2 rules to be consistent with the definition of "built-upon area" set out in subsection (b2) of
3 G.S. 143-214.7, as amended by Section 28(a) of this act.

4 **SECTION 28.(c)** Unless specifically authorized by the General Assembly, neither
5 the Environmental Management Commission nor the Department of Environment and Natural
6 Resources have the authority to define the term "gravel" for purposes of implementing
7 stormwater programs. Any rule adopted by the Environmental Management Commission or the
8 Department of Environment and Natural Resources that defines the term "gravel" for purposes
9 of implementing stormwater programs is not effective and shall not become effective.

10 **SECTION 28.(d)** Of funds available to the Department of Environment and
11 Natural Resources for the 2013-2015 biennium, the Department shall use up to the sum of one
12 hundred ten thousand dollars (\$110,000) to contract with the Department of Biological and
13 Agricultural Engineering at North Carolina State University to conduct the study required by
14 this section. The Department of Biological and Agricultural Engineering at North Carolina
15 State University shall conduct a study to determine the extent to which different aggregate
16 surfaces are pervious, impervious, or partially pervious. The study shall include variables such
17 as different types of aggregate, different types of underlying soil, different levels of
18 compaction, different types of soil preparation and aggregate installation, different depths of
19 aggregate, and any other variables that may significantly affect whether an aggregate surface is
20 pervious, impervious, or partially pervious. The Department of Biological and Agricultural
21 Engineering at North Carolina State University shall submit an interim report on the results of
22 the study to the Department of Environment and Natural Resources and the Environmental
23 Review Commission no later than September 1, 2014. The Department of Biological and
24 Agricultural Engineering at North Carolina State University shall submit a final report on the
25 results of the study to the Department of Environment and Natural Resources and the
26 Environmental Review Commission no later than January 1, 2015.

27 **SECTION 28.(e)** This act is effective when it becomes law. Subsection (b2) of
28 G.S. 143-214.7, as amended by Section 28(a) of this act, applies to projects for which permit
29 applications are received on or after that date.

30 31 **UNITED STATES POSTAL SERVICE CLUSTER BOX UNITS/NO STORMWATER** 32 **PERMIT MODIFICATION REQUIRED**

33 **SECTION 29.(a)** Notwithstanding the requirements of Article 21 of Chapter 143
34 of the General Statutes and rules adopted pursuant to that Article, the addition of a cluster box
35 unit to a single-family or duplex development permitted by a local government shall not require
36 a modification to any stormwater permit for that development. This section shall only apply to
37 single-family or duplex developments in which individual curbside mailboxes are replaced with
38 cluster box units whereupon the associated built-upon area supporting the cluster box units
39 shall be considered incidental and shall not be required in the calculation of built-upon area for
40 the development for stormwater permitting purposes.

41 **SECTION 29.(b)** Section 29(a) of this act becomes effective when this act
42 becomes law and expires on December 31, 2015, or when regulations on cluster box design and
43 placement by the United States Postal Service become effective and those regulations are
44 adopted by local governments, whichever is earlier.

45 46 **MODIFICATION OF APPROVED WASTEWATER SYSTEMS**

47 **SECTION 30.(a)** The definitions set out in G.S. 130A-343 shall apply to this
48 section.

49 **SECTION 30.(b)** 15A NCAC 18A .1969(j) (Modification of Approved Systems).
50 – Until the effective date of the revised permanent rule that the Commission is required to
51 adopt pursuant to Section 30(d) of this act, the Commission and the Department shall

1 implement 15A NCAC 18A .1969(j) (Modification of Approved Systems) as provided in
2 Section 30(c) of this act.

3 **SECTION 30.(c)** Implementation. – Notwithstanding 15A NCAC 18A .1969(j)
4 (Modification of Approved Systems), the rule shall be implemented so as to not require a
5 survey or audit of installed modified accepted systems in order to confirm the satisfactory
6 performance of such systems.

7 **SECTION 30.(d)** Additional Rulemaking Authority. – The Commission for Public
8 Health shall adopt a rule to amend 15A NCAC 18A .1969(j) (Modification of Approved
9 Systems) consistent with Section 30(c) of this act. Notwithstanding G.S. 150B-19(4), the rule
10 adopted by the Commission pursuant to this section shall be substantively identical to the
11 provisions of Section 30(c) of this act. Rules adopted pursuant to this section are not subject to
12 Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
13 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
14 objections had been received as provided by G.S. 150B-21.3(b2).

15 **SECTION 30.(e)** Sunset. – Section 30(c) of this act expires on the date that the rule
16 adopted pursuant to Section 30(d) of this act becomes effective.

17 18 **CAPSTONE PERMITTING**

19 **SECTION 31.** G.S. 150B-23 is amended by adding a new subsection to read:

20 "**§ 150B-23. Commencement; assignment of administrative law judge; hearing required;**
21 **notice; intervention.**

22 ...
23 (g) Where multiple licenses are required from an agency for a single activity, the
24 Secretary or chief administrative officer of the agency may issue a written determination that
25 the administrative decision reviewable under Article 3 of this Chapter occurs on the date the
26 last license for the activity is issued, denied, or otherwise disposed of. The written
27 determination of the administrative decision is not reviewable under this Article. Any licenses
28 issued for the activity prior to the date of the last license identified in the written determination
29 are not reviewable under this Article until the last license for the activity is issued, denied, or
30 otherwise disposed of. A contested case challenging the last license decision for the activity
31 may include challenges to agency decisions on any of the previous licenses required for the
32 activity."

33 34 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

35 **SECTION 32.** If any section or provision of this act is declared unconstitutional or
36 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
37 the part declared to be unconstitutional or invalid.

38 **SECTION 33.** Except as otherwise provided, this act is effective when it becomes
39 law.